

Appl. No. 10/067,187
Amdt. Dated March 29, 2004
Reply to Office Action of January 29, 2004

REMARKS

Claims 1 through 13 and 15 through 44 are pending in the present application. Applicants believe that all of the claims are currently in condition for allowance.

In the Office Action, claims 1 to 13 and 15 to 44 are objected to because of an informality with respect to claim 1, namely that the Markush group of moisturizers listed under the surfactant system should have been listed after "a moisturizer system". Appropriate corrections to claim 1 have been made. Claim 1 now claims a moisturizer system having two or more moisturizers selected from the group consisting of amidoamine salt, lactic acid salt, sunflowerseed amidopropyl dimethylamine lactate, isostearamidopropyl morpholine lactate, sodium C₁₂-C₁₅ alkoxypropyl iminodipropionate, laureth-12 sulfosuccinate, cocoglucoside, glyceryl oleate, casteryl maleate, olive oil, glycerin, and any combinations thereof.

In the Office Action, claims 1 to 13 and 15 to 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,720,961 to Fowler (hereinafter "Fowler").

Applicants have amended independent claim 1 to further clarify its respective features. Applicants respectfully submit that Fowler does not expressly or inherently disclose all of the elements set forth in independent claim 1 or claims 2 to 13 and 15 to 44, which depend directly or indirectly therefrom. Thus, Fowler does not anticipate claim 1 or claims 2 to 13 and 15 to 44.

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Independent claim 1 now clearly provides a cleanser composition comprising: a mild surfactant system; a moisturizer system that comprises two or more moisturizers selected from the group consisting of amidoamine salt, lactic acid salt, sunflowerseed amidopropyl dimethylamine lactate, isostearamidopropyl morpholine lactate, sodium C₁₂-C₁₅ alkoxypropyl iminodipropionate, laureth-12 sulfosuccinate, cocoglucoside, glyceryl oleate, casteryl maleate, olive oil, glycerin, and any combinations thereof; and a solvent system, wherein the mild surfactant system amounts to less than 17 wt.% of the total weight of the composition.

As conceded by the Office Action, Fowler does not disclose cleansing composition containing a surfactant system, a moisturizer system, and a solvent system having the requisite components of the composition in the specific proportions required by claims 1 to 13 and 15 to 44. Applicants further point out that Fowler does not disclose a moisturizer system comprising two or more moisturizers selected from the group consisting of amidoamine salt, lactic acid salt, sunflowerseed amidopropyl dimethylamine lactate, isostearamidopropyl morpholine lactate, sodium C₁₂-C₁₅ alkoxypropyl iminodipropionate, laureth-12 sulfosuccinate, cocoglucoside, glyceryl oleate, casteryl maleate, olive oil, glycerin, and any combinations thereof, as is now claimed by claim 1.

Rather, Fowler is directed to a personal care composition useful for cleansing the skin and hair using

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insoluble micronized cleansing particles chosen to provide a cleansing benefit, yet without being tactilely detectable or unduly causing abrasion (column 1, lines 7 to 20).

Fowler does not disclose a personal care composition useful for cleansing and moisturizing the skin. In fact, Fowler merely lists skin-conditioning agents as an optional component, which may be added to the claimed cleansing composition. Thus, there arguably is no disclosure or suggestion of a moisturizing system, and clearly there is no disclosure or suggestion of a moisturizer system comprising two or more moisturizers selected from the group consisting of amidoamine salt, lactic acid salt, sunflowerseed amidopropyl dimethylamine lactate, isostearamidopropyl morpholine lactate, sodium C₁₂-C₁₅ alkoxypropyl iminodipropionate, laureth-12 sulfosuccinate, cocoglucoside, glyceryl oleate, casteryl maleate, olive oil, glycerin, and any combinations thereof. Independent claim 1 is thus clearly patentable over Fowler.

To establish a *prima facie* case of obviousness there must be some suggestion or motivation to modify the reference. The present application is directed to a moisturizing cleanser. The specification of the present application provides that the choice of the moisturizer for use in the moisturizer system is predicated on a combination of the following two factors: (1) low irritation potential and (2) skin moisture level preservation (page 9, lines 15 to 19). In contrast, Fowler is directed to a personal care composition useful for cleansing the skin and hair using insoluble micronized cleansing particles chosen to provide a cleansing benefit,

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yet without being tactilely detectable or unduly causing abrasion (column 1, lines 7 to 20). Fowler is not a personal care composition for moisturizing the skin. In fact, the cleansing benefits described by Fowler would not be conducive to low irritation potential, and enhanced moisture preservation described by the claimed invention.

While, as suggested by the Action, Fowler discloses skin-conditioning agents, Fowler fails to disclose a moisturizer system comprising two or more moisturizers selected from the group consisting of amidoamine salt, lactic acid salt, sunflowerseed amidopropyl dimethylamine lactate, isostearamidopropyl morpholine lactate, sodium C₁₂-C₁₅ alkoxypropyl iminodipropionate, laureth-12 sulfosuccinate, cocoglucoside, glyceryl oleate, casteryl maleate, olive oil, glycerin, and any combinations thereof. Accordingly, Fowler does not provide a suggestion or motivation to modify the personal care composition to provide a moisturizing system, let alone a moisturizing system comprising two or more moisturizers selected from the group consisting of amidoamine salt, lactic acid salt, sunflowerseed amidopropyl dimethylamine lactate, isostearamidopropyl morpholine lactate, sodium C₁₂-C₁₅ alkoxypropyl iminodipropionate, laureth-12 sulfosuccinate, cocoglucoside, glyceryl oleate, casteryl maleate, olive oil, glycerin, and any combinations thereof, as is clearly claimed by claim 1.

It is respectfully requested for the reasons set forth above that the rejection under 35 U.S.C. § 103(a) be

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reconsidered and withdrawn, and that claims 1, and claims 2 to 13 and 15 to 44 be allowed.

Claims 22, 23, 38, 41 and 42 also provide other patentable features over Fowler. For example, claim 22 provides that the composition of claim 1 has a viscosity of about 1 centipoise to about 64 centipoise. Claim 23 provides that the composition of claim 1 has a viscosity of about 10 centipoise to about 30 centipoise. Claim 38 provides that the cleansing composition has a pH of about 4 to 9. Claim 41 provides that the cleansing composition is delivered as a foam. Claim 42 provides that the cleansing composition of claim 1 is a tear free composition. The features of claims 22, 23, 38, 41 and 42 recited above, Applicants submit, are not disclosed or suggested in Fowler. Thus, these claims are clearly patentable over Fowler for these reasons as well.

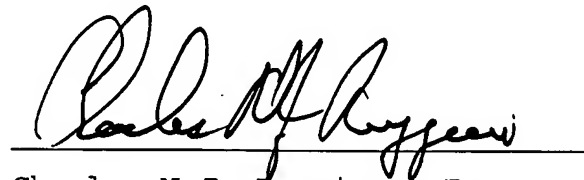
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In view of the foregoing, Applicants respectfully submit that all claims presented in this application patentably distinguish over the prior art. Accordingly, Applicants respectfully request favorable consideration and that this application be passed to allowance.

Respectfully submitted,

March 29, 2004

Date

A handwritten signature in dark ink, appearing to read "Charles N.J. Ruggiero", is written over a horizontal line.

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